



DEPARTMENT OF LAW  
OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

February 18, 1976

R75-497

BRUCE E. BABBITT  
ATTORNEY GENERAL

76-49

Mr. Dino DeConcini  
Administrative Assistant  
Office of the Governor  
State Capitol  
Phoenix, Arizona 85007

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**ARIZONA ATTORNEY GENERAL**

Dear Dino:

This letter is in response to your written inquiry to this office dated August 6, 1975, concerning the legal effect of an executive order issued by the Governor on the Arizona Board of Regents and the universities under the Board's jurisdiction. Your question is of a general nature and apparently does not pertain to any particular executive order which the Governor has already issued or is contemplating issuing. Consequently, this opinion will set forth the general interrelationship between the Governor and the Arizona Board of Regents.

The Governor's powers are those which the Constitution confers on him, together with such additional powers as the Legislature properly reposes in him. Holmes v. Osborn, 57 Ariz. 522, 539, 115 P.2d 775 (1941). The powers directly conferred upon the Governor by the Arizona Constitution are set forth in Article 5 of the Constitution. Among the more important powers conferred by the Constitution on the Governor is that "he shall take care that the laws be faithfully executed." (Art. 5, Sec. 4) The Legislature has given the Governor other powers not directly conferred upon him by the Constitution. For instance, the Legislature has provided that the Governor shall supervise the official conduct of all executive and ministerial officers of the State and shall see to it that the duties of all State offices are performed. (A.R.S. § 41-101, subsection A, paragraphs 1 and 2.)

The Arizona Board of Regents was established by Article 11, Section 5, of the Arizona Constitution, although no specific powers are given to the Board in that provision or in any other provision of the Constitution. However, the Legislature, in Chapter 7 of Title 15, Arizona Revised Statutes, has set forth the powers and duties of the Board. For instance, the Legislature has provided in that Chapter that the Board of Regents shall have jurisdiction and control over the State's universities. (A.R.S. § 15-724, subsection A.) The Legislature



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has also provided that the Board of Regents shall enact ordinances for the government of the institutions under its jurisdiction. (A.R.S. 15-725, subsection A, paragraph 1.) Consequently, as a general matter, the Board of Regents is the State agency responsible for exercising general control over the State's universities.

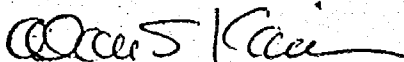
This is not to say, however, that an executive order issued by the Governor is not binding on the Board and the universities. Whether any particular executive order is binding will depend upon the facts and circumstances involved. For instance, if the executive order attempted to designate the curriculum and courses at the State's universities, it would clearly be of no legal effect, since it would conflict with the power given to the Board with respect to those matters by the Legislature in A.R.S. § 15-725, subsection A, paragraph 6. However, if an executive order, such as Executive Order No. 75-5, directs all State Agencies, including the Arizona Board of Regents, to take certain steps to prohibit discrimination in employment by contractors entering into agreements with State agencies, then that order is binding upon the Arizona Board of Regents. It is binding since it is within the power given to the Governor by the previously mentioned provision of the Arizona Constitution that he shall insure that the laws of the State are faithfully executed, as well as within the previously mentioned statutory power to assure that the duties of all State offices are performed. (See, in this instance, A.R.S. §§ 41-1461, et seq., pertaining to discrimination in employment.)

The foregoing analysis sets forth the general inter-relationship of the Governor to the Arizona Board of Regents. If you have any specific question in mind which the foregoing does not answer, please let us know.

Best regards.

Sincerely,

BRUCE E. BABBITT  
Attorney General



ALAN S. KAMIN  
Assistant Attorney General

ASK:dl

bcc: Mr. Blair Benjamin